THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.19745 OF 2005

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DATED: 12-12-2005

Between:

K.Srinivasa Rao . . .Petitioner

And

The Commissioner, Endowments Dept., Hyderabad,

and others ..Respondents

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O R D E R:

The petitioner was appointed as Vratha Purohita in Sree Veera Venkata Satyanarayana Swamy Devasthanam, Annavaram, (for short "the Devasthanam") in the year 1990. The appointment is through a contract in favour of the petitioner and several others. The remuneration is also on the basis of percentage on the share of Vratham tickets. The petitioner was issued a show cause notice, dated 12-03-2003, alleging that he remained absent on two spells of time namely, between 12-01-2003 and 31-01-2003 and between 16-02-2003 and 27-02-2003. It was also alleged that the Brahma and Upa Brahma, the superior authorities, in the matter of conducting Vrathams, have complained about the conduct of the petitioner.

The petitioner submitted his explanation stating that he had to leave the station on two occasions, on account of the death of his father and for the purpose of performing obsequies at Varanasi and other places. The Executive Officer of the Devasthanam, the third respondent, passed an order, dated 25-03-2003, removing the petitioner from the post of
Vratha Purohit, in exercise of powers under sub-section (2) of Section 37 of the Andhra Pradesh Endowments Act. The petitioner preferred an appeal before the second respondent against the order of removal. The appeal was rejected through proceedings, dated 21-05-2004. Aggrieved by the same, he also filed Second Appeal before the Commissioner, Endowments Department, Hyderabad, first respondent. The said appeal was also dismissed through proceedings, dated 29-10-2004. Hence, this writ petition.

Sri B.Sarvotham Reddy, learned counsel for the petitioner, submits that the petitioner was regular in performing his duties and that on the two occasions referred to in the show cause notice, as well as in the impugned order, he had to leave for other places to perform obsequies of his deceased father. He contends that the respondents have taken certain extraneous factors into account, without putting the petitioner on notice. He submits that the punishment imposed against the petitioner is unwarranted, illegal and disproportionate.

Learned Government Pleader for Endowments appearing for the first respondent and Sri E.Sambasiva Pratap, learned Standing Counsel for respondents 2 and 3, submit that the petitioner was not performing his duties according to the code of conduct, in spite of being warned by the superior authorities. They contend that the petitioner did not obtain prior permission from the authorities concerned before leaving for such long spells and on account of the same, the work in the temple had suffered.

In the show cause notice issued to the petitioner, the period of absence was prominently pointed out. Reference was also made to the alleged violation of the directions issued by the superiors. While the first allegation is specific, the second allegation is as vague as it could be. On his part, the petitioner explained that the absence was occasioned on account of death of his father. The respondents do not allege that the plea taken by the petitioner is factually incorrect.

The petitioner was totally incapacitated from submitting any explanation as regards the other part of the allegation. No instances of indiscipline or insubordination have been pointed out. Therefore, the only basis for the action against the petitioner can be his absence for the two spells in the months of January and February.

From a perusal of the representation, dated 24-03-2003, submitted by the group of Purohits, it is evident that a Purohit is not supposed to perform his regular duties for some period on the eve of any inauspicious or tragic occurrences in their families. The impugned order also does not indicate that the absence of the petitioner on the two spells was unwarranted. Even assuming that there was any dereliction of duty on the part of the petitioner in absenting for the said

period, it cannot result in total denial of livelihood for him. Any punishment imposed upon an employee must be proportionate to the acts of misconduct alleged against him. At any rate, the respondents did not conduct any semblance of enquiry, though not a departmental enquiry.

Viewed from any angle, the punishment imposed against the petitioner cannot be sustained. The same is accordingly set aside. If the petitioner had committed any act of misconduct, he cannot be left scot-free. For this purpose, the respondents have to put him on notice by specifically pointing out the acts of misconduct or indiscipline. The fact that this Court had set aside the order of removal of the petitioner should not be treated as drawl of curtain to the acts of indiscipline resorted to by the petitioner.

Hence, the writ petition is allowed setting aside the order, dated 29-10-2004, and directing reinstatement of the petitioner. It shall be open to respondents 2 and 3, to take any action against the petitioner pointing out the specific acts of indiscipline, in accordance with law and in case such allegations are proved, it shall be open to them to impose punishment proportionate to the act of misconduct proved against the petitioner.

There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

12th DECEMBER, 2005.

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